

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

INGERSOLL-RAND COMPANY,

Plaintiff,

V.

CENTURY INDEMNITY COMPANY  
(as successor to CCI Insurance Company,  
successor to Insurance Company of North  
America)

Defendant.

Civil Action No. 07-CV-4825 (LTS) (THK)

AFFIDAVIT OF MALCOLM L. MYERS

I, Malcolm L. Myers, state as follows:

1. I submit this Affidavit in support of the reply brief of Century Indemnity Company, as successor to CCI Insurance, as successor to Insurance Company of North America (“Century”) in further support of Century’s motion to dismiss this action.
2. Century is, and at all times relevant to this action was, a corporation organized under the laws of Pennsylvania, with its principal place of business in Philadelphia, Pennsylvania.
3. I am a Vice President at Resolute Management, Inc.
4. I am, and at all times relevant to this action have been, responsible for responding to claims for coverage by Ingersoll-Rand Company (“Ingersoll-Rand”) for underlying asbestos claims made under Century excess liability Policies No. XBC 1904 and No. XBC 42188 (collectively, the “Century Policies”).

5. By 2002, Ingersoll-Rand had raised coverage issues under a number of excess policies, including issues concerning the settlement of underlying claims.

6. Preliminary discussions regarding those issues were held in and conducted from various locations, primarily between Century's and Ingersoll-Rand's respective outside counsels.

7. By the second half of 2003, I participated in negotiations with Ingersoll-Rand focused on just the two Century Policies forming the subject of the disputed agreement. None of these meetings occurred in New York.

8. The two face-to-face meetings held in the second half of 2003 concerning the resolution of coverage issues under the Century Policies occurred in New Hope, Pennsylvania and Hamburg, New Jersey.

9. As stated in my previous affidavit submitted to this Court, in or around November 2003 at the meeting in Hamburg, New Jersey, Century and Ingersoll-Rand reached an agreement with regard to the Century Policies ("2003 Settlement Agreement").

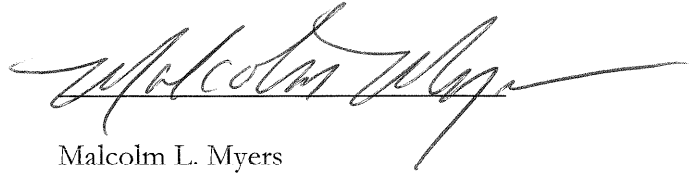
10. Since that time, Century has been reimbursing Ingersoll-Rand for its defense costs and indemnity payments in accordance with, and in express reliance upon, the terms of the 2003 Settlement Agreement. Those reimbursements exceed \$25 million.

11. All payments sent in accordance with, and in express reliance upon, the terms of the 2003 Settlement Agreement have been sent to Ingersoll-Rand in New Jersey.

12. At the time that Century filed its New Jersey Action against Ingersoll-Rand, Century did not have specific knowledge that Ingersoll-Rand intended to file suit against Century, nor did Century have specific knowledge that Ingersoll-Rand would choose to file suit in New York, rather than in Ingersoll-Rand's home county of Bergen County, New Jersey.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of July, 2007.

A handwritten signature in cursive script, appearing to read "Malcolm Myers", written over a horizontal line.

Malcolm L. Myers